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Viewing cable 05LIMA2074, BOWEN DECISION CAUSES OUTRAGE, THREATENS PRESS

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Understanding cables

Every cable message consists of three parts:

- The top box shows each cable's unique reference number, when and by whom it originally was sent, and what its initial classification was.
- The middle box contains the header information that is associated with the cable. It includes information about the receiver(s) as well as a general subject.
- The bottom box presents the body of the cable. The opening can contain a more specific subject, references to other cables ([browse by origin](#) to find them) or additional comment. This is followed by the main contents of the cable: a summary, a collection of specific topics and a comment section.

To understand the justification used for the classification of each cable, please use this [WikiSource](#) article as reference.

Discussing cables

If you find meaningful or important information in a cable, please link directly to its unique reference number. Linking to a specific paragraph in the body of a cable is also possible by copying the appropriate link (to be found at the paragraph symbol). Please mark messages for social networking services like Twitter with the hash tags #cablegate and a hash containing the reference ID e.g. #**05LIMA2074**.

Reference ID	Created	Released	Classification	Origin
05LIMA2074	2005-05-06 15:41	2011-08-30 01:44	CONFIDENTIAL//NOFORN	Embassy Lima

Appears in these articles:

<http://elcomercio.pe>

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L SECTION 01 OF 02 LIMA 002074

SIPDIS

SENSITIVE

E.O. 12958: DECL: 08/08/2014
TAGS: [PGOV](#) [PHUM](#) [PINR](#) [SCUL](#) [PE](#)
SUBJECT: BOWEN DECISION CAUSES OUTRAGE, THREATENS PRESS
FREEDOM IN PERU

Classified By: Political Counselor Alex Margulies, Reason 1.4 (d)

Summary:

¶1. (U) Judge Alfredo Catacora of the 11th Criminal Court of Lima on 5/4 convicted British journalist Sally Bowen, her co-author Jane Holligan, and their publisher of criminal defamation for quoting in their book "The Imperfect Spy" an imprisoned narcotrafficker's assertion that narco-kingpin Fernando Zepallos was involved in drug trafficking. The judge reserved the right to impose prison terms on the defendants if they do not observe "good behavior" and ordered them to pay 10,000 soles (USD 3000) in compensatory damages. The decision represents an insidious threat to press freedom. The defendants are appealing. Local media reaction has been strongly in Bowen's favor, with press freedom organizations up in arms and newspapers strongly criticizing the judge's ruling. End Summary.

Judge Catacora Rules

¶2. (U) Judge Alfredo Catacora of the 11th Criminal Court of Lima on 5/4 convicted British journalist (over twenty years resident in Peru) Sally Bowen, her co-author Jane Holligan, and their publisher of criminal defamation. The judge reserved the right to impose prison terms on the defendants if they do not observe "good behavior" and ordered them to pay 10,000 soles (USD 3000) in compensatory damages for having cited allegations that narco-kingpin Fernando Zepallos was a drug trafficker in their book "The Imperfect Spy."

Twisted Reasoning, De Facto Censorship

13. (C) According to Bowen's attorney, Jorge Santistevan, Judge Catacora ruled that the mere reporting of a source's statement that Zevallos had engaged in narcotrafficking constituted criminal libel. Although Zevallos, links to narcotrafficking are common knowledge (he currently is on trial in Peru charged with attempting to smuggle 3.5 tons of cocaine to Mexico), the judge effectively held that a narcotrafficker cannot be referred to as such until he has been convicted of that crime by a court. Furthermore, the judge reportedly ignored the jurisprudential requirement that malice be proven to sustain a libel judgment, holding that the journalists were liable because they should have taken more care to discover that Zevallos had not been convicted of narcotrafficking before publishing their book.

14. (C) Santistevan observed to Polcouns that Judge Catacora's decision to reserve the imposition of prison terms on Ms. Bowen and Ms. Sullivan if they do not engage in "good behavior" for the next year effectively serves as a form of censorship, as the journalists will risk the immediate imprisonment should they report on Zevallos during this time.

Bowen Under Pressure

15. (C) Zevallos has been pressuring Bowen from a variety of sources. Bowen told Ambassador on 4/29 that a local journalist of Japanese-Peruvian descent who was tied to Fujimori-era corruption had recently asked to meet with her. The journalist advised her "as a friend" to settle out of court with Zevallos. He suggested that if Bowen would retract her assertion from her book, then Zevallos would withdraw his criminal defamation complaint against her. Bowen rejected the suggestion.

16. (C) Bowen also told Ambassador that when she went back to examine prison records regarding her interview with the source that fingered Zevallos, the corresponding page from the prison's visitors log was missing. Bowen realized this when she added up the interviews for that day, which were far less than the total recorded in the book.

Press, HR Groups React

17. (U) Embassy contacted press associations Human Rights groups and women's rights organizations in the run-up to the decision, making them aware of USG interest in the Bowen case. All welcomed the contact. In the wake of the decision, the Foreign Press Association (APEP), the Interamerican Press Association (SIP), the National Association of Peruvian Journalists (ANP), and the Peruvian Institute of Press and Society (IPYS) publicly condemned the decision as a serious threat to press freedom.

18. (U) Press reaction has been similarly strong and negative. Lima's flagship daily "El Comercio" led with the headline "Judge Issues Scandalous Sentence in Sally Bowen Case." Daily "La Republica" described the decision as "a dangerous precedent." Daily "Peru 21" carried a page 2 opinion piece by editor Augusto Alvarez Rodrich entitled "A Sentence to Silence," that criticized the "nefarious precedent" that the Bowen decision would set if left to stand.

Comment:

19. (U) The Bowen conviction was a travesty of justice than can only have a chilling effect on freedom of speech and freedom of the press if not reversed soon. Embassy has worked with WHA/PDA on press guidance, and our officers will continue to express our concerns over this decision with our contacts. Furthermore, the Ambassador intends to raise this issue in a meeting requested next week with the Supreme Court Chief Justice. End Comment.

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